



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

---

Mailed and Filed: SEPTEMBER 27, 2022

IN THE MATTER OF:

Appeal Board No. 624011

PRESENT: RANDALL T. DOUGLAS, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective September 18, 2021, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant and by the employer. By decision filed May 26, 2022 (), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board.

Based on the record and testimony in this case, the Board makes the following

**FINDINGS OF FACT:** The claimant was employed by a law office as a part-time secretary from March 2018 until September 17, 2021. During the course of her employment, the owner called the claimant "cutie pie," "honey bun," and "love of my life." He also told her that she looked sexy and had the sexiest legs that he had seen for a long time. He also scratched his private body parts in front of the claimant. The claimant complained to the owner about his conduct. In response, the owner would stop for a few days and then start again. The comments made the claimant uncomfortable. The owner continued to make comments about what the claimant was wearing and that she looked sexy she through the last week of her employment. The claimant had to told him to stop making those comments.

The claimant resigned because she was being sexually harassed by the owner. She told the owner that she was leaving because of the inappropriate things he had been saying. The owner told her "I'm a good attorney. I know what to say, when to say it, how far to go before it becomes sexual harassment."

OPINION: The credible evidence establishes that the claimant voluntarily left her employment because she had been repeatedly sexually harassed by the owner. We credit the claimant's testimony about the owner's conduct over the owner's denials. We note that the claimant gave specific, nuanced and consistent testimony throughout the hearing. In resolving credibility, we note that the owner admitted that he had used "terms of endearment", but that the comments were directed towards another attorney or secretary; that it was possible that he scratched himself; and that the claimant had spoken to him about his conduct. As she had repeatedly complained about his behavior, the claimant made sufficient efforts to preserve her employment prior to her resignation. No employee is required to endure sexual harassment as a term and condition of employment. Accordingly, we conclude that the claimant voluntarily left her job with good cause and that her employment ended under non-disqualifying circumstances.

DECISION: The decision of the Administrative Law Judge is reversed.

The initial determination, disqualifying the claimant from receiving benefits, effective September 18, 2021, on the basis that the claimant voluntarily separated from employment without good cause, is overruled.

The claimant is allowed benefits with respect to the issues decided herein.

RANDALL T. DOUGLAS, MEMBER